

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**JERRY M. FOCKEN and MARGARET A. FOCKEN, Guardians and Conservators of Corey D. Focken,**

**Plaintiffs,**

**VS.**

**FORTIS INSURANCE COMPANY, now  
known as TIME INSURANCE COMPANY,**

**Defendant.**

**8:07CV280**

## ORDER

Upon review of the file,

**IT IS ORDERED:**

1. Plaintiffs' "Withdrawal of Motion to Dismiss and Request That Case Be Identified as One to Be Tried to Jury" (Doc. 29) is granted, in part, as follows:

- a. Plaintiffs' requests for leave to dismiss the complaint without prejudice are deemed withdrawn.

- b. Plaintiffs are given an extension of time until and including **April 15, 2008** to file all filings required to be made prior to that date under the current progression order (Doc. 19).

- c. The remainder of the Motion (requesting that the case be docketed for trial by jury) will be construed as a motion for relief pursuant to Fed. R. Civ. P. 39(b). Filing 29 is held in abeyance pending the defendant's response on that issue.

- d. Defendant is given until and including **April 4, 2008** to respond to plaintiff's request for relief pursuant to Fed. R. Civ. P. 39(b), at which time that issue will be deemed submitted for decision.

2. Defendant's Motion (Doc. 28) for extension of time to designate a bad faith expert is granted. Defendants shall serve their expert witness designation within 30 days of the date of this order.

**DATED March 31, 2008.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**